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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

UDC - 20201 CON

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 7/28/05Signature Margie WeaverTyped or printed name MARGIE SCARANT

Application Number

10/712,492

Filed

11/13/2003

First Named Inventor

Michael Stuart Weaver

Art Unit

2813

Examiner

Schillinger, Laura M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) attorney or agent of record. 34,297
Registration number _____ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

David B. Bonham

Typed or printed name

703-433-0510

Telephone number

July 28, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

Reasons for requesting review:

- For a reference to anticipate a claim, it must disclose each and every element of the claim. See MPEP 2131 and cases cited therein, including *Richardson v. Susuki Motor Co.*
- In Final Rejection mailed 4/28/2005, Claims 44-55 were rejected under 35 USC § 102(e) as anticipated by U.S. Patent No. 6,576,351 to Silvernail (Silvernail '351). This is clearly erroneous because Silvernail '351 does not meet all of the limitations set forth in **Claim 44**, the only independent claim presently pending. (See Response filed 6/24/05, page 2: lines 3-13.)
- In Final Rejection mailed 4/28/2005, *Fig. 6 of Silvernail '351 was cited by the Examiner* (See Final Rejection mailed 4/28/2005, page 2: last full paragraph.)
- Applicants' Response filed 6/24/05 pointed out shortcomings evident in *Fig. 6 of Silvernail '351 cited by the Examiner*, which the Examiner apparently did not appreciate.
 - Silvernail '351 clearly does not meet the following limitation of claim 44: " said high-density layer is disposed over said planarizing layer in a manner such that said high-density layer extends to said substrate layer and, in conjunction with said substrate layer, completely surrounds said planarizing layer " (See Response filed 6/24/05, page 6: *Fig. 6 of Silvernail '351 cited by the Examiner* followed by lines 1-9.)
 - Applicants explained, in detail, the difference between *Fig. 6 of Silvernail '351 cited by the Examiner* and the present claims (See Response filed 6/24/05, Page 6: lines 10-15.)

Serial No. 10/712,492
Pre-Appeal Brief Request for Review
Attached Sheet 2

- Examiner's Advisory Action mailed 7/25/2005 states that "Applicants reference to the specification to distinguish the prior art is not persuasive because such conditions are not found in the claim language itself" (See Advisory Action dated 7/25/2005.)
 - Applicants did not reference the present specification to distinguish the prior art from the present claims. Rather, Applicants referenced a prior art specification (*Fig. 6 of Silvernail '351 cited by the Examiner*) to distinguish the prior art from the present claims.
 - Applicants drew the Examiner's attention to the present specification only at paragraph 0037 which points out the drawbacks of the arrangement shown in the prior art specification (e.g., *Fig. 6 of Silvernail '351 cited by the Examiner*). Specifically, because the planarizing layers disclosed in the arrangement shown in the prior art specification (*Fig. 6 of Silvernail '351 cited by the Examiner*) are not completely surrounded, each presents a path of low resistance to harmful environmental species such as moisture and oxygen. (See Response filed 6/24/05, Page 6: lines 15-18.)
- As pointed out above, Claim 44 positively recites structural limitations that clearly distinguish the present invention over the prior art.
- Reconsideration and withdrawal of the sole remaining rejection in this application, which is clearly erroneous, are requested.